

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3497 OF 2004
IN
INCOME TAX APPEAL (LODG) NO.1464 OF 2004

Mont Blanc Properties & Industries
Private Limited .. Appellant.
V/s.
The Assistant Commissioner of Income
Tax, Range 5(2), Mumbai .. Respondent.

Mr.A.K. Jasani for the appellant in support of the
notice of motion.
Mr.R.V. Desai, senior counsel with Mr.A.S. Rao for
the respondent.

CORAM : S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.

DATED : 15TH FEBRUARY, 2005.

P.C.

Heard learned counsel for the appellant and
the respondent.

2. By this notice of motion, the appellant is
seeking condonation of 662 days delay in filing the
above appeal. Perused the affidavit in support of the
notice of motion as well as order dated October 14,
2004 passed by this court in Income Tax Appeal No.77
of 2003.

3. It appears that the Income Tax Appeal No.77
of 2003 was filed with regard to the common order
passed in two appeals by the Income Tax Appellate

Tribunal. In the above appeal No.77 of 2003, the appellants had paid separate court fees and in the said appeal the issue involved in the present appeal was included. As the court found that the issues were different, the said Appeal No.77 of 2003 was treated as an appeal arising out of the order passed in Income tax appeal No.7639/Bom/95 and, accordingly, ordered refund of court fee with regard to the order passed in Income tax appeal No.6402/Bom/94.

4. So far as the present notice of motion is taken out seeking condonation of delay in filing the appeal with regard to the aforesaid Income tax Appeal No.6402/Bom/94 which was actually filed by way of Income Tax Appeal No.77 of 2003 earlier. Under the aforesaid peculiar facts and circumstances, we find that sufficient cause is made out for condonation of delay. There is no inaction, negligence or want of bonafides on the part of the appellant.

5. Hence, the notice of motion is made absolute in terms of prayer clause (a).

(S. RADHAKRISHNAN. J.)

(J.P. DEVADHAR, J.)